

Appl. No. : 10/791,164
Filed : March 2, 2004

REMARKS

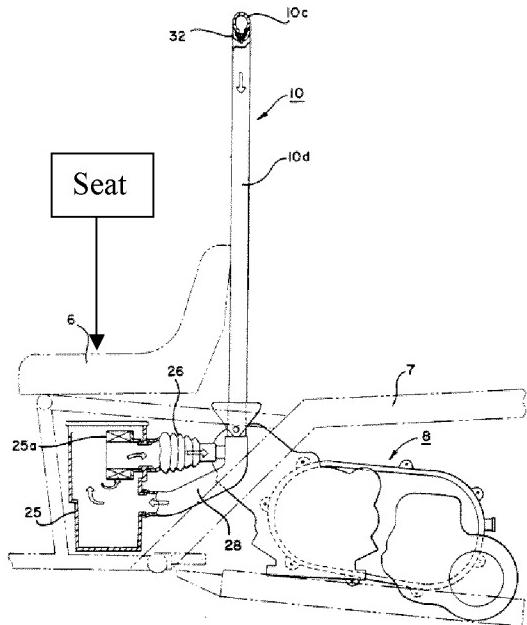
Claims 1-6, 8-10, 12-39 remain pending in the present Application, Claims 31 and 39 having been amended. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ or [[double brackets]] and additions being underlined.

In response to the Office Action mailed March 1, 2007, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Mizuta et al. Does Not Anticipate Claims 31-32 or 37

Claims 31-32, 37, and 39 stand rejected as anticipated by United States Patent No. 5,086,858 to Mizuta et al. Applicants respectfully disagree. However, in order to expedite prosecution of the present Application, Applicants have amended Claim 31. Applicants expressly reserve the right to further prosecute the original version of Claims 31, 32, 37 and 39 through continuation practice.

As noted in the previous Amendment, the Mizuta et al. reference teaches a small four-wheeled vehicle with the air cleaner disposed **directly beneath** the seat. **No portion**, not even a sliver, of the air cleaner is disposed forward of the seat.



Applicants recognize that the Examiner has indicated that there is a difference between the phrase “forward of the seat” and the phrase “forward **from** the seat”. More specifically, in the ***Response to Arguments*** section of the Office Action, at page 3, the Examiner indicated that Claim 31 is anticipated by Mizuta et al. because Claim 31 recites that “the air cleaner lies forward of the seat” not “from the seat”.

Firstly, Applicant submits that such a distinction between the use of the terms “of” and “from” is not based on a reasonable interpretation of the claims. As made clear in the MPEP, the terms of a claim must be given their “broadest reasonable interpretation **consistent** with the specification.” MPEP 2111 (emphasis added).

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Applicants submit that the interpretation of the term “of” presently applied in the outstanding Office Action is not reasonable or consistent with the specification, particularly with regard to the interpretation apparently applied to Claim 39.

However, in order to expedite prosecution of the present Application, Applicants have amended Claims 31 and 39 to change the term “of” to “from”.

More specifically, Claim 31 now recites, among other recitations, “at least one seat supported by the frame, an internal combustion engine powering at least one of the wheels, and an air intake system arranged to supply air to the engine for combustion, the air intake system comprising an air cleaner configured to filter the air, the seat being disposed in a fore to aft direction on the vehicle such that the air cleaner lies forward from the seat and at least a portion of the engine lies behind the seat.”

As shown above, no portion of the air cleaner Mizuta et al. is positioned forward from the seat. Rather, it is directly beneath the seat.

Thus, Claim 31 is not anticipated by Mizuta et al. Claims 32, 37, and 39 also define over the Mizuta et al. reference, not only because they depend from Claim 31, but also on their own merit. Reconsideration and allowance of Claims 31, 32 and 37 are respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 3, 2008

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